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September 10, 2024

VIA ECF

The Honorable Judge Dale E Ho
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Mbaye et al v. RCI Hospitality Holdings, Inc. et al*
Case No. 1:23-cv-02967(DEH)

Dear Judge Ho:

We represent Defendants RCI Hospitality Holdings, Inc., Peregrine Enterprises Inc., RCI 33rd Ventures, Inc., 48 West 33rd Street Corp., RCI Dining Services (37th Street), Inc., Eric Langan, and Kes Senevi (collectively “Defendants”) in the above-captioned matter. We respectfully write to request an adjournment of the summary judgment briefing schedule in this case pending the parties' settlement conference with Magistrate Judge Jennifer E. Willis scheduled for October 24, 2024.

Defendants make this request because the settlement conference could result in an agreement to resolve this case, entirely obviating the need for motion practice. Moreover, the cost of attorneys' fees involved in drafting summary judgment papers could create an additional barrier to settlement. In fact, Defendants sought to schedule the settlement conference for a date prior to the deadline for Defendants' initial summary judgment brief for these very reasons.¹ Accordingly, Defendants respectfully request the forgoing revised briefing schedule for their motion for summary judgment:

Defendants' Initial Brief: adjourned from September 16 to November 7, 2024
Plaintiffs' Opposition Brief: adjourned from October 16 to December 9, 2024
Defendants' Reply Brief: adjourned from November 1 to January 5, 2025

¹ Unfortunately, due to Plaintiffs' counsel's lack of availability, it was not possible to schedule a settlement conference prior to September 16, 2024.

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This is the first request for an adjournment of the motion for summary judgment briefing schedule. Plaintiffs' counsel does not consent to this requested extension claiming that he is "concerned that the motion for summary judgment is being used to delay the case." There is, of course, no basis to assert that Defendants are trying to "delay the case." As noted above, Defendants' counsel sought to schedule the settlement conference for a date prior to the deadline for their initial summary judgment brief. Moreover, this Court has already given Defendants permission to file a motion for summary judgment, rejecting Plaintiffs' argument that Defendants are trying to simply delay this case by filing a motion for summary judgment.

We thank Your Honor for consideration of this request.

Respectfully Submitted,

/s/ Jeffrey A. Kimmel
Jeffrey A. Kimmel
Partner
For the Firm

cc: Plaintiffs' attorney (via ECF)